IN THE HIGH COURT OF JUDICATURE AT PATNA
CR. WJC No.1023 of 2007
SATYA NARAIN YADAV & ANR
Versus
THE STATE OF BIHAR & ORS
---

5 8.12.2008 The petitioners allege that one Md. Mazlum was over powered by some villagers from his house and assaulted and handed over to Police. The aforesaid accused persons again assaulted him despite being in police custody. The next morning the aforesaid Md. Mazlum was not found at the police station and the villagers made protest. It is alleged that in police firing one Jageshwar Yadav, father of petitioner no.1, Pramod Yadav, was killed whereas two persons sustained injuries.

WEB COPY NOT OFFICIAL

The learned counsel for the State has filed counter affidavit. In its counter affidavit it is stated that a case being Narpatganj P. S. Case No.188/07 under section 224 of the I.P.C. has already been filed on 6.7.2007. As according to the State Md.Mazun @ Mazlum escaped away on plea of attending the call of nature.

So far as the matter relating to escape of Md. Mazlum is concerned, a case has already been registered. So far as the death of Jageshwar Yadav and injuries to two persons in the alleged police firing is concerned, there is a rival version contained in Annexures-1 and 2.

The alleged police firing to disperse the mob resulted in death of the father of petitioner no.2 besides causing injuries to two others . A case ought to have been instituted in view of complaint made by a family member.The plea of the State that the

aforesaid occurrence took place in a bona fide discharge of duty to disperse the mob and to protect injuries on police would be a matter of investigation and trial.

The State counsel submits that a case being Narpatganj P.S. Case No.188/07 has been instituted on the statement of Indradeo Ram, acting S.D.O.under section 302 and other penal sections for injuries and attack on the police party and administration. The complaint of the petitioners in respect of death of Jageshwar Yadav .

Taking into consideration the facts and circumstances of the case, this Court directs that in case petitioner no.2 files a complaint before the Narpatganj Police Station, a regular case would be instituted in respect of the death of his father and thereafter it would be open to the State to amalgamate both the cases.

With the aforesaid directions this writ application is disposed of.

WEB COPY NOT OFFICIAL

Anilksinha **(Samarendra Pratap Singh,J.)**